REMARKS

Claims 1-8 and 37-51 are pending in this application. Claims 1, 5-6, 8, and 37 are amended.

Claims 1-5, 37-41, and 44-45 were rejected under 35 U.S.C. § 103(a) over Perkes and Liwerant et al.; claims 6 and 42 were rejected under 35 U.S.C. § 103(a) over Perkes, Liwerant, and Christian et al.; claim 7 was rejected under 35 U.S.C. § 103(a) over Perkes, Liwerant, and Chung; claims 8, 43, 46-49, and 51 were rejected under 35 U.S.C. § 103(a) over Perkes, Liwerant, and Fleming; and claim 50 was rejected under 35 U.S.C. § 103(a) over Perkes, Liwerant, Fleming, and Christian. Applicant respectfully traverses these rejections.

As amended, claims 1-8 recite "determining whether an indication has previously been recorded that the client system has communicated with the distribution system via the communications link." If an indication has previously been recorded, indicating that client system has previously communicated with the distribution system via the communications link, when an image is subsequently to be distributed, the image will be sent to the client system via the communications link. If an indication has not previously been recorded, indicating that the client system has not previously communicated with the distribution system via the communications link, the image will be sent to the client system via a mechanism other than the communications link, such as via a physical computer-readable medium.

None of the cited references disclose or suggest "determining whether an indication has previously been recorded that the client system has communicated with the distribution system via the communications link." At most, Perkes determines the current status – on line or off line – of a viewer's computer. (See Perkes, p. 8, ¶ 0078.) If the viewer is currently on line, Perkes provides information associated with a broadcast to the viewer and allows the viewer to download the broadcast. Under applicant's techniques,

when an image is to be distributed by the distribution system to a client system, a determination is made as to whether an indication has previously (i.e., before the time of image distribution) been recorded that the client system has communicated with the distribution system. In contrast, Perkes describes that when a broadcast is to be transmitted to the client system (e.g., when a Broadcaster initiates an Intention to Transmit Notice), Perkes subsequently determines whether the viewer's computer is currently on line or off line. Perkes offers no teaching or suggestion that a determination is made as to whether the viewer's computer has previously been on line.

Nor does Perkes disclose or suggest making this determination based on a "recorded indication." The Examiner cites Perkes at p. 8, ¶ 0078 as corresponding to this recited feature. (Office Action, October 17, 2007, p. 3.) In particular, the Examiner describes that Perkes teaches "the on/off line status of the viewers computer is determined by the Master Agent." While Perkes at p. 8, ¶ 0078 does offer the teaching described by the Examiner, this teaching does not correspond to the recited feature. In particular, Perkes does not disclose or suggest that this determination is made based on a "recorded indication." Perkes does not disclose or suggest "determining whether an indication has previously been recorded that the client system has communicated with the distribution system via the communications link."

As amended, claims 37-45 recite "whether a communication has recently been received via the communications link from the client system." None of the cited references disclose or suggest "whether a communication has recently been received via the communications link from the client system." As described above, at most, Perkes determines the current status – on line or off line – of a viewer's computer. (See Perkes, p. 8, ¶ 0078.) If the viewer is currently on line, Perkes provides information associated with a broadcast to the viewer and allows the viewer to download the broadcast. Under applicant's techniques, when a package of images is to be distributed to a client system, a determination is made as to whether a communication has recently (and, thus, before the time of image distribution) been received from the client system. In contrast, Perkes

describes that when a broadcast is to be transmitted to the client system (e.g., when a Broadcaster initiates an Intention to Transmit Notice), Perkes <u>subsequently</u> determines whether the viewer's computer is currently on line or off line. Perkes offers no teaching or suggestion that a determination is made as to whether the viewer's computer has <u>recently</u> been on line.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 407438001US from which the undersigned is authorized to draw.

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Respectfully submitted,

By Maurice J. Pirio
    Registration No.: 33,273
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000
(206) 359-7198 (Fax)
Attorney for Applicant